



Fair Political Practices Commission

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NEWS RELEASE

For Immediate Release:
March 3, 2004

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FPPC wins Agua Caliente appeal in tribal gaming case *Court finds no "tribal immunity" from enforcement of disclosure laws*

In a major legal victory for the Fair Political Practices Commission, the 3rd District Court of Appeal in Sacramento today upheld the right of the FPPC to sue the Agua Caliente Band of Cahuilla Indians for failing to disclose the tribe's contributions to political campaigns and its lobbying activities. FPPC Chair Liane Randolph hailed the decision as a "clear victory" for California voters.

Denying the tribe's appeal of a Superior Court ruling in favor of the FPPC, the three-judge appellate court panel ruled 2-1 "that the doctrine of tribal immunity. . .has no foundation in the federal constitution or in any federal statute."

"The constitutional right of the State to sue to preserve its republican form of government trumps the common law doctrine of tribal immunity," the court ruled in a published opinion.

"We are delighted with the opinion," said Commission Chair Liane Randolph. "The court recognized that the State of California has the constitutional right to run its own elections. In exercising that right, the voters of the state have chosen to require that campaign contributions be limited and fully disclosed. Every other participant in our political system must follow the rules of the Political Reform Act. Today, the court agreed that the tribes must as well."

"This is a clear victory for the voters of California, including voters who are members of the tribes," she added.

Justices Coleman A. Blease, Richard Sims and Rod Davis heard oral arguments Feb. 18 on the tribe's petition to overturn the Sacramento Superior Court ruling by Judge Loren McMaster and dismiss the FPPC lawsuit against the tribe. In the 25-page majority opinion, Blease and Sims voted to deny the tribe's petition. Davis wrote a nine-page dissent. Both are available on the court's website at:

<http://www.courtinfo.ca.gov/opinions/documents/C043716.PDF>. The decision is also available on the FPPC's website at www.fppc.ca.gov – go to "litigation" on the left side of the home page.

The suit alleges that the tribe made contributions of more than \$7.5 million to California candidates and political committees between Jan. 1 and Dec. 31, 1998, but did not file major-donor reports disclosing that activity until late 2000. The commission also contends in the suit that the tribe failed to timely disclose more than \$1 million in late contributions, and that it failed to disclose information about its lobbying activities.

The suit was originally filed in Sacramento Superior Court on July 31, 2002, and later amended to add additional claims. On Jan. 27, 2003, in an historic ruling which rejected the tribe's claims of sovereign immunity in the case, Judge McMaster ruled in favor of the FPPC and denied the tribe's motion to dismiss the lawsuit. McMaster also ruled that the FPPC has enforcement jurisdiction over the tribe.

The tribe filed a petition on April 7, 2003, asking the 3rd District Court of Appeal to overturn McMaster's ruling. The appellate court dismissed the petition on April 24, returning the case to the trial court. The tribe then filed a petition for review by the state Supreme Court. On July 23, the Supreme Court ordered the case returned to the state appellate court for hearing.

Representing the FPPC on tribal sovereignty issues is Sacramento attorney Charity Kenyon of Riegels Campos & Kenyon LLP. The case is also handled for the FPPC by Enforcement Division Chief Steven Russo, with assistance from FPPC General Counsel Luisa Menchaca and staff counsel William L. Williams Jr. and C. Scott Tocher.

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